

Assembly Bill No. 2177

Passed the Assembly August 2, 2010

Chief Clerk of the Assembly

Passed the Senate July 1, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 18416.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2177, Beall. Income and corporation taxes: Franchise Tax Board: administration: electronic communication.

Existing law, among other things, requires the Franchise Tax Board to administer the Personal Income Tax Law and the Corporation Tax Law.

This bill would authorize the Franchise Tax Board, by regulation, to implement an alternative communication method that, at the request of a taxpayer or the taxpayer's authorized representative, would allow specified electronic communications between the Franchise Tax Board and the taxpayer. The bill would require the Franchise Tax Board to advise the taxpayer or the taxpayer's authorized representative of the ramifications of electing to receive notifications from the Franchise Tax Board in the manner selected and of failing to take appropriate action in response to those notifications prior to the use of the alternative communication method. The bill would repeal the provisions as of January 1, 2018.

This bill would require the Franchise Tax Board to ensure procedural due process requirements are satisfied in the implementation of the alternative communication method.

The people of the State of California do enact as follows:

SECTION 1. Section 18416.5 is added to the Revenue and Taxation Code, to read:

18416.5. (a) The Franchise Tax Board may, by regulation, implement an alternative communication method that would allow the Franchise Tax Board, at the request of the taxpayer or the taxpayer's authorized representative, to provide notification to the taxpayer in a preferred electronic communication method designated by the taxpayer that a notice, statement, bill, or other communication required or authorized under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with

Section 23001) is available for viewing in the taxpayer's limited access secure folder on the Franchise Tax Board's Internet Web site and would allow the taxpayer or the taxpayer's authorized representative to file a protest, notification, and other communication to the Franchise Tax Board in a secure manner. Prior to obtaining the consent of a taxpayer to participate in the alternative communication method authorized by this section, the Franchise Tax Board shall advise the taxpayer or the taxpayer's authorized representative of the ramifications of electing to receive notifications from the Franchise Tax Board in the manner selected and of failing to take appropriate action in response to one or more of those notifications.

(b) Sending electronic notification to a taxpayer or the taxpayer's authorized representative pursuant to the taxpayer's request made in accordance with regulations authorized under subdivision (a) shall not be considered a violation of Section 19542 or 19542.1. Any electronic notification provided to a taxpayer using the alternative communication method authorized by this section shall include plain language advising the taxpayer that a failure to act may cause the taxpayer to forego procedural or administrative rights to challenge the proposed action.

(c) This section shall cease to be operative with respect to a notice, statement, bill, protest, or other communication between the Franchise Tax Board and a taxpayer on or after January 1, 2018, and is, as of that date, repealed. The repeal of this section shall not be interpreted or applied to invalidate any notice, statement, bill, protest, or other communication between the Franchise Tax Board and a taxpayer prior to that date using the alternative communication method authorized by this section prior to its repeal.

(d) Notwithstanding any other law regarding the use of United States mail, any notice, statement, bill, protest, and other communication from the Franchise Tax Board to a taxpayer or the taxpayer's authorized representative and from a taxpayer or the taxpayer's authorized representative to the Franchise Tax Board pursuant to the alternative communication method authorized by this section shall be treated as if it were mailed by United States mail, postage prepaid.

SEC. 2. The Legislature finds and declares that Section 18416.5 of the Revenue and Taxation Code, as added by Section 1 of this

act, is intended to enhance opportunities for alternative means of communication with taxpayers. The Legislature is mindful of fundamental requirements of the federal and state constitutions concerning procedural due process. In prescribing regulations under Section 18416.5 of the Revenue and Taxation Code, the Franchise Tax Board shall ensure procedural due process requirements are satisfied.

Approved _____, 2010

Governor